

UNITED STATES DISTRICT COURT

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WESTERN DISTRICT OF WASHINGTON

SEP 02 1999

12.8

In the Matter of the Search of

Business Premises of Shades of Seattle,
2428 Highway 99, Units 43 and 44,
Everett, Washington,
as more further described below.

APPLICATION AND AFFIDAVIT FOR SEARCH WARRANT

CASE NUMBER: 99-401M

AT SEATTLE
CLERK U.S. DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
DEPUTY

5055F
12.8

I (b) (6), (b) (7)(C) being duly sworn depose and say:

I am a Special Agent with the Environmental Protection Agency (EPA), Criminal Investigative Division
and have reason to believe that ___ on the person of or X on the premises known as (name, description and/or address)

Shades of Seattle, located at 12428 Highway 99, Units 43 and 44, Everett, Washington, as more fully
described in Attachment A, attached hereto and incorporated herein by reference,

in the Western District of Washington there is now concealed certain property, namely (describe person/property)

See Attachment B, attached hereto and incorporated herein by reference,

which are (give alleged grounds for search under Rule 41(b) Fed. R. Crim. P.)

the fruits, instrumentalities, and evidence of criminal activities, to wit, the illegal transportation, treatment, storage,
and disposal of hazardous waste without a permit, interim status, and an EPA hazardous waste identification
number,

in violation of Title 42 United States Code, Section(s) 6922, 6925, 6926, and 6928(d).

The facts to support the issuance of a Search Warrant are as follows:

See attached Affidavit of Michael Burnett, attached hereto and incorporated by reference herein.

Continued on the attached sheet and made a part hereof: X Yes ___ No

(b) (6), (b) (7)(C)

Signature of Affiant

Sworn to before me, and subscribed in my presence

September 2, 1999

Date at Seattle, Washington

Ricardo S. Martinez

United States Magistrate Judge

Name & Title of Judicial Officer

Signature of Judicial Officer

152882



I hereby certify that the
annexed instrument is a true
and correct copy of the original
on file in my office.
ATTEST: BRUCE RIFKIN
Clerk, U. S. District Court
Western District of Washington
By H. Brent Graham
Deputy Clerk

PROPERTY DESCRIPTION
(Attachment A)

Shades of Seattle Inc., 12428 Highway 99, Everett, Washington occupies two units, Units 43 and 44, within a building in the Empire Industrial Park, 12428 - 12432 on Highway 99 in Everett, Washington. The building containing the business premises of Shades of Seattle is a large tan building with dark brown trim located within the industrial park and is further identified by the letter "B" affixed to the East end in blue, and a sign approximately 3 feet by 8 feet, that is blue and red in color with white writing that reads, "Units 43 - 64." There is a brown wooden fence along the east side of the building in front of the parking area. The business premises of Shades of Seattle are located on the North side of the aforementioned building, and are identified by a sign reading "Shades of Seattle" above one of the doors. To the East of this door is a large white garage/bay door with a white sign above it that reads number "43." To the West of the door with the sign reading "Shades of Seattle" is another large garage/bay door, also white in color, with three windows and a white sign above it that reads number "44."

ITEMS TO BE SEIZED
(Attachment B)

Records, files, documents and property constituting the fruits, instrumentalities and evidence of the illegal transportation, treatment, storage and disposal of hazardous waste, and persons responsible for same, as set forth in the accompanying Affidavit of Michael Burnett, which Affidavit is specifically incorporated herein by reference, namely:

1. Solvents and waste solvents, including, but not limited, to Rodda Lacquer Thinner, Recochem paint thinner, Klean Strip paint thinner, and Parker Paint Company Wood Hide, and containers for such solvents and waste solvents;
2. Masking tape of any kind;
3. Documents, records and files reflecting the ownership and control of Shades of Seattle, including, but not limited to, incorporation records, articles of incorporation, by-laws, corporate minutes, director and officer appointments, stockholder records, trade name documentation, and state and federal tax records;
4. From July 1, 1998, to the present, documents, records and files identifying employees and personnel associated with Shades of Seattle, including, but not limited to, records containing the names, addresses and telephone numbers of such personnel, the job description and other material defining the nature and scope of each employee's responsibilities, time sheets and/or time cards documenting attendance of employees, employment applications, resumes, payroll records, and personnel files;
5. From July 1, 1998, to the present, documents, records and files relating to the disposal of hazardous waste or waste solvents by Shades of Seattle, including, but not limited to, any manifests, invoices, bills of lading, driver's logs, trip records, shipping documents, checks used to pay for such disposal, check registers, cash disbursement records, receipts, and other disposal records;
6. From July 1, 1998, to the present, documents, records and files relating the purchase of solvents and or paint thinner by Shades of Seattle, including, but limited to, checks for such purchase, check registers, cash disbursement records, purchase and sales order forms, receipts, invoices, bills, and shipping and transportation records;
7. From July 1, 1998, to the present, documents, records and files relating to job locations and work performed (or to be performed) by Shades of Seattle, including, but not limited to, proposals, bids, agreements, contracts, receipts, work plans, appointment books, calendars, assignment forms, maps, drawings, and correspondence;
8. Documents, records and files relating to vehicles owned and used by Shades of Seattle, its employees, agents, and affiliates, included, without limitation, vehicle titles, vehicle

registrations, licensing documentation, insurance documentation, and gas records;

9. Documents, records and files relating to or reflecting knowledge and information possessed by Shades of Seattle, its employees, agents, or affiliates, concerning federal, state and local environmental protection laws and regulations and the hazardous waste characteristics of solvents and solvent wastes used by Shades of Seattle, its employees, agents, and affiliates, including, but not limited to, brochures, printed regulations, trade literature, Material Safety Data Sheets, letters, notes, and correspondence;

10. Computerized records of any documents, records or files described above, along with any documentation explaining the operation of the computer system and backup files or disks;

Together with all other fruits, instrumentalities, and evidence of the illegal transportation, treatment, storage and disposal of hazardous waste as set forth in the accompanying Affidavit of Michael Burnett.

AFFIDAVIT

I, (b) (6), (b) (7)(C), being first duly sworn on oath, deposes and says:

1. I am a special Agent of the United States Environmental Protection Agency (hereinafter "EPA"), Criminal Investigation Division (hereinafter EPA/CID) located in Seattle, Washington. I have been so employed for approximately six years. Prior to that time I was employed by the Thurston County Health Department as a hazardous waste specialist. In my current position, I am authorized to obtain and execute arrest and search warrants.

2. As a Special Agent of the EPA Criminal Investigation Division, I am responsible for, among other things, conducting investigations of alleged criminal violations of various environmental statutes including the Resource Conservation and Recovery Act (hereinafter "RCRA"), 42 U.S.C. § 6901 et seq., and the regulations promulgated thereunder, which governs the handling of hazardous wastes. I am presently engaged in an investigation regarding the illegal disposal of hazardous waste by Shades of Seattle located in Everett, Washington, at several unpermitted facilities in Washington.

A. RESOURCE CONSERVATION AND RECOVERY ACT

3. RCRA, which was enacted in 1976, has among its stated objectives the protection of human health and the environment through stringent regulation of the treatment, storage, transportation and disposal of hazardous waste. 42 U.S.C. § 6902. RCRA accomplishes its objectives by creating a "cradle-to-grave" regulatory system to govern and track hazardous wastes from the point of generation until their final disposal.

4. Among other things, the statute requires that EPA identify and list solid wastes

which meet the statutory definition of hazardous waste.¹ These identified and listed hazardous wastes are then subject to the regulations established by the EPA regarding the handling of such hazardous wastes. 42 U.S.C. § 6921. In order to be regulated as a hazardous waste under RCRA, the material must first be a "solid waste." The term "solid waste," as used in the statute and the regulations promulgated thereunder, includes any solid, liquid, semi-solid, or contained gaseous material resulting from industrial, commercial, mining and agricultural activities. See 42 U.S.C. § 6903(27) and 40 C.F.R. § 261.2. Generally speaking, materials are considered solid waste if they are either discarded or abandoned. Abandonment is defined by the regulations to include accumulation, storage or treatment in lieu of being abandoned or disposed. 40 C.F.R. § 261.

¹ Section 6903(5) of RCRA, defines "hazardous waste" as:

[A] solid waste, or combination of solid wastes, which because of its quantity, concentration, or physical, chemical or infectious characteristics may --

(A) cause or significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitating reversible illness; or

(B) pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed of, or otherwise managed.

42 U.S.C. § 6903(5). The term "solid waste" is defined in 42 U.S.C. § 6903(27) to include:

[A]ny garbage, refuse, sludge from a waste treatment plant. . . and other discarded material including solid, liquid, semisolid or contained gaseous material resulting from industrial, commercial, mining and agricultural activities. . . .

42 U.S.C. § 6903(27).

5. A solid waste is considered hazardous under RCRA if it is either a specifically listed waste in the applicable regulations, or exhibits any of the following characteristics: ignitability, corrosivity, reactivity or toxicity. The regulations identify certain characteristics of a waste, including ignitability or toxicity that are evaluated to determine if a particular waste is hazardous. For example, ignitable wastes are deemed to include liquids which have a flash point of less than 140 degrees Fahrenheit. One accepted method for determining the characteristic of ignitability is the Pensky Martens Closed Cup Tester. 40 C.F.R. 261.21.

6. Once a waste is identified as hazardous, it is subject to the regulations promulgated under RCRA. Hazardous wastes may only be transported to, treated by, stored at, or disposed of at facilities which have received permits properly issued pursuant to RCRA to handle such wastes, or which are designated to have interim status prior to the issuance of a permit in accordance with RCRA. 42 U.S.C. §§ 6925 and 6926. These RCRA permits impose regulatory conditions specifically tailored and limited to the type of hazardous waste handling activity at that particular facility. The facility may only handle those hazardous wastes and perform those activities covered by its permit. See 40 C.F.R. Part 264. Similarly, facilities with interim status are subject to stringent regulations designed to provide protection for human health and the environment.

7. The criminal enforcement provisions of RCRA provide, among other things, at 42 U.S.C. § 6928(d)(1) that:

any person who --

* * *

(2) knowingly treats, stores, or disposes of any hazardous waste identified or listed under this subchapter -

(A) without a permit under this subchapter

shall be guilty of an offense.

42 U.S.C. § 6928(d)(1).

B. FACTUAL BASIS

8. In early October of 1998, the EPA/CID received information from the Washington State Department of Ecology (Ecology) regarding several dump sites where approximately 25 five-gallon containers of waste paint thinner were found at each site. The first dump site of 25 five-gallon containers of waste paint thinner was discovered in early August outside the town of Selah, Washington. On August 18, 1998, a dump site containing another 25 containers of waste paint thinner was found near the town of Ellensburg, Washington. Ecology contacted the EPA/CID after another site was discovered on October 1, 1998, near Issaquah, Washington, that also contained 25 five-gallon containers of waste paint thinner. The containers at all three sites had a unique characteristic, most of the containers had masking tape wrapped around them. The product found at the dump sites was Rodda Lacquer Thinner, a hazardous waste.

9. On October 13, 1998, I contacted Tom Braden of the Rodda Paint Company in Portland, Oregon, regarding the disposal of the waste paint thinner. Braden told me that the Rodda Lacquer Thinner found at the dump sites is sold to numerous commercial painting contractors throughout Washington and Oregon. He explained that the labels on the containers found do not provide enough information to identify a sole purchaser of the product. Braden stated that he could provide a list all the companies Rodda has sold the Lacquer Thinner to during the past year. Braden asked me to submit the request for the customer list in writing. I sent Braden a letter by facsimile asking for a list of customers which purchased Lacquer Thinner. Braden sent a customer list back to me the same day. The list contained the names of

28 customers in Washington state, who purchased Rodda Lacquer Thinner in the past year. Of the 28 customers, only four had purchased the volumes that had been found at the dumps sites. Braden also sent me a Material Safety Data Sheet (MSDS) for Rodda Lacquer Thinner. According to the MSDS, Rodda Lacquer Thinner has a flash point of less than 1 degree Fahrenheit.

10. On October 23, 1998, Ecology contacted me to report that another dump site had been discovered in Lynnwood, Washington. Ecology Criminal Investigator Gerd Hattwig and I met Ecology spill responders at the dump site. The site was located on a dead-end street at approximately 1800 26th Avenue West in Lynnwood. Fifty-five 2.5 gallon containers of "Klean Strip" paint thinner were found dumped off the side of the road. All the containers were full of waste paint thinner. Many of the containers found had masking tape wrapped around the labels, similar to the Rodda containers found at the other dump sites. Samples were taken by Ecology from several of the containers and one sample was sent to the EPA Lab in Manchester, Washington for analysis.

11. On November 20, 1998, Ecology inspector, Richard Granberg, sampled five of the containers found near Ellensburg, Washington and tested the samples for ignitability. All five samples exhibited the characteristic of ignitability, thus designating the material as hazardous waste.

12. On April 3, 1999, another dump site was found at 13710 NE 41st Avenue. in the Lake City neighborhood of Seattle. The dump site contained approximately 34 two and one half gallon containers of paint thinner and 9 five gallon containers of paint thinner. Also found at the dump site was a five gallon paint can that appeared to contain paint thinner. Both Rodda Lacquer Thinner and Clean Strip paint thinner were found at the dump site. The paint can was

labeled as Parker Paint "Wood Hide." Of the 34 two and one half gallon containers, 7 were labeled as "Recochem Paint Thinner" and the remaining 27 were Klean Strip paint thinner. Most of the containers found at the dump site were wrapped with masking tape. Samples were collected and analyzed by EPA contractor Ecology and Environment.

13. On April 6, 1999, I contacted Dale Glass of Parker Paint Company in Tacoma, Washington to determine if Parker Paint could provide EPA/CID with a list of customers who purchased the Parker Paint "Wood Hide." I provided Glass with the numbers "4060 white 98E1045HS" found on the side of the label. Glass told me that the numbers on the label were the batch numbers and he could print a list of customers who purchased paint from that batch. On April 8, 1999, I received a list by facsimile of customers who purchased paint from the batch identified on the container found at the dump site. The list provided by Parker Paints contains hundreds of customer names. Only two companies that purchased large enough quantities of Rodda Lacquer Thinner to account for what has been dumped, appeared on the list of companies proved by Parker Paints. These companies, Apex Painting and Shades of Seattle, have purchased both products. Parker Paints also provided a list of customers that purchased Klean Strip paint thinner in two and one half gallon containers. There are no matches for the purchases of Klean Strip, in the quantities found, to the companies that purchased Rodda Lacquer Thinner.

14. I again contacted Tom Braden of Rodda Paints and asked him if Rodda Paints sells Klean Strip paint thinner and Recochem paint thinner at their stores. Braden told me that they sell both products at their stores in Washington and Oregon. On May 17, 1999, Braden sent me a copy by facsimile of the list of commercial sales of Klean Strip paint thinner and Recochem paint thinner sold in two and one half gallon containers. Braden also provided me

with an updated list of companies that have purchased Rodda Lacquer Thinner sold in five gallon containers. According to the list provided by Braden, Shades of Seattle is the only company that has purchased all three products in the quantities that have been found disposed of at the various locations around Washington State. Shades of Seattle has purchased 1,080 two and one half gallon containers of Klean Strip paint thinner, 72 two and one half gallon containers of Rechochem paint thinner and 1,395 containers of Rodda Lacquer thinner from Rodda Paints.

15. On May 18, 1999, I conducted surveillance at the business location Shades of Seattle painting located at 12428 Highway 99, Unit 43, in Everett, Washington. From this location, I followed the painters to a housing development construction site off Grade Road in Lake Stevens, Washington. I subsequently conducted surveillance ^{at no} the construction site in Lake Stevens on numerous occasions.

16. On June 10, 1999, (b) (6) contacted me to report the disposal of waste Rodda Lacquer Thinner on his property located at (b) (6) in Redmond, Washington. (b) (6) received my name from Tom Braden at Rodda Paint.

17. On June 10, 1999, I responded to the disposal site reported by (b) (6). The dump site contained 31 five gallon containers of Rodda Lacquer Thinner. All the containers contained waste solvent. Many of the containers were wrapped with masking tape in a similar manner as the previous dump sites. Pieces of rope and carpet were also found at the site.

18. On June 14, 1999, Richard Walker of the Washington State Department of Ecology collected samples from three of the containers found off the Redmond-Fall City Road.

19. On June 15, 1999, Susan Winter of the Washington State Department of Ecology contacted me to report another dump site near the town of Snohomish, Washington. Winters stated that she found approximately 32 five-gallon containers of Rodda Laquer Thinner dumped off the side of Echo Lake Road. She estimated the cross street to be 214th on a small dirt road. Winter stated that she would clean up the containers on June 16, 1999, and would collect three samples from the containers at that time.

20. On June 15, 1999, I responded to the disposal site reported by Winter. I identified 32 five-gallon containers of paint thinner at the site off Echo Lake Road. Thirty-one of the containers were labeled as Rodda Lacquer Thinner and one container was labeled as Sherwin Williams Mineral Spirits. All but two of the containers were full of spent solvents. There was evidence that the two empty containers had spilled onto the ground. I took photographs of the site.

21. On June 17, 1999, I received the samples collected by both Winter and Walker from the Ecology office in Bellevue, Washington. On June 18, 1999, I took the samples to the EPA Laboratory in Manchester Washington for analysis.

22. On June 28, 1999, I received the sample results from the ignitability test conducted on the samples collected from the containers found dumped in the Lake City neighborhood on April 3, 1999. Samples were collected from six of the 43 containers found at the Lake City site. The samples were tested for ignitability using the Pensky-Martens closed Cup flash point analysis. All six of the samples flashed below 140 degrees Fahrenheit which designates them as hazardous waste.

23. On July 17, 1999, I received the sample analysis for the samples collected by Winter from the Echo Lake dump site on June 15, 1999. The samples were tested for

ignitability using the Pensky-Martens closed Cup flash point analysis. The three samples flashed below 140 degrees Fahrenheit which designates them as hazardous waste. I also received the analysis for the samples collected at the Lynnwood dump site on October 23, 1998. The sample had been held at the EPA Laboratory until I notified them on June 18, 1999, to analyze the sample. The sample from the Lynnwood dumps site also flashed below 140 degrees Fahrenheit, designating them as hazardous waste.

24. On July 29, 1999, I conducted surveillance at the construction site in Lake Stevens, Washington, where Shade^{MS}of Seattle is painting homes. At approximately 12:30 p.m. I arrived at a home identified as number 13 on 35th Place NE in Lake Stevens, Washington. I had previously seen two vans with the name "Shade^{MS}of Seattle" written on both sides of the vehicles, parked in front of the home. The garage door of the home was open, revealing several containers of paint and paint thinner. I could identify two five-gallon containers of Rodda Lacquer Thinner along with miscellaneous cans of paint. One of the five gallon containers of Rodda Lacquer Thinner was wrapped with masking tape near the top of the container. The tape was wrapped in a similar manner as the tape I had observed on many of the Rodda Lacquer Thinner containers that have been found illegally dumped. The container also had a white plastic funnel inserted into the opening in a manner to assist liquids to be poured into the container. I left the construction site at approximately 12:40 p.m. and observed two vans with "Shades of Seattle" written on the sides arrive at home number 13. At approximately 1:30 p.m., I again drove by home number 13 and observed the two Shades of Seattle vans parked in front of the home. At that time, I also observed someone working in the garage with what appeared to be cans of paint and painting equipment.

25. On August 8, 1999, Gerd Hattwig, Washington State Department of Ecology

Criminal Investigator, conducted surveillance at the Shades of Seattle facility located 12428 Highway 99 in Everett, Washington. While conducting surveillance, Investigator Hattwig recorded the license plate numbers of several vehicles parked next to the Shades of Seattle facility. Investigator Hattwig recorded the license plate number "00738N" from a white Dodge van parked in a parking lot just below the Shades of Seattle facility. A query of the Washington State Department of Licensing's vehicle registration records identified the owner of the white Dodge van as (b) (6).

26. On August 27, 1999, I conducted surveillance at the construction site in Lake Stevens, Washington. I observed a white van with "Shade^{WB}s of Seattle" written on the sides in blue letters, leave the home identified as number 2 on Catherine Drive. I then drove in the driveway of the home and identified a 5 gallon container of Rodda Paint Thinner, among other paint cans, located inside the garage. I went into the garage and photographed the can. The can was approximately half full of what appeared to be discolored paint solvents. The can had white paint marking on one side of the container and blue paint markings on the other side.

27. On August 31, 1999, I again conducted surveillance at the construction site in Lake Stevens, Washington. I observed a white van with license plate number "(b) (6)" parked in front of the house identified as number 24. This was the same vehicle observed at the Shades of Seattle facility by Investigator Hattwig on August 8, 1999. I observed three people painting the exterior of the home. From the end of the driveway I could see two containers that appeared to be Rodda Laquer Thinner. One of the containers had masking tape wrapped around the middle portion in a similar manner as the containers found illegally dumped. I approached the house and asked a man who was painting near the garage if the house had been sold. He stated that he thought the home had been sold but told me that I

could look inside the home if I would like. I asked him if I could take photograph of the interior of the home. He told me to feel free to photograph the home. I then proceeded into the garage where I took photographs of the Rodda Laquer Thinner container with masking tape wrapped around it. Again, a query of the Washington State Department of Licensing's vehicle registration records identified the owner of the white Dodge van as Timothy Alan Diers.

28. On September 1, 1999, I received a telephone call from Jeff Rodin, EPA On-Scene Coordinator (OSC), who advised me that another dump site had been discovered in Seattle, Washington. Rodin stated that the numerous Rodda Laquer Thinner containers had been found dumped at 2900 NE Blakeley Street in the University district of Seattle.

29. On September 1, 1999, at approximately 8:15 a.m., I arrived at 2900 NE Blakeley Street in Seattle, Washington. Approximately 24 five-gallon containers of waste paint thinner were abandoned next to the building located at 2900 NE Blakeley. Twenty three of the containers were labeled as Rodda Laquer Thinner and one container was labeled as Tar Laquer Thinner. All the containers appeared to be full of waste paint solvents and many of the containers had masking tape wrapped around them in a manner similar to the containers found at the other dump sites.

30. I met with OSC Rodin and Seattle Police Officer Kyle Stevens at the dump site. Officer Stevens told me that he was dispatched to the scene at approximately 5:37 a.m. that morning. He stated that (b) (6), (b) (6), had called 911 after he heard noise outside his apartment and witnessed a white pickup truck leaving the scene with containers falling out of the back. Officer Stevens further stated that the Seattle Fire Department had been on scene earlier in the morning and retrieved several of the containers from the side of NE Blakeley Street and accumulated the waste containers next to the dumpster at 2900 NE Blakeley. OSC

Rodin arranged to have EPA contractor, Ecology and Environment, obtain samples from the containers.

31. I interviewed (b) (6) while at the dump site on NE Blakeley. (b) (6) told me that he was awakened at approximately 5:30 a.m. by loud banging sounds. He stated that he looked out the window of his second story apartment, located at 2900 NE Blakeley, and observed a white pickup truck traveling west on Blakeley. He explained that as the truck had just departed the west end of his building when he observed several containers fall out of the back of the truck onto Blakeley Street. He described the truck as a white pickup truck. Norris could not identify the make or approximate the year of the truck. He stated that the driver was ~~my~~ wearing a baseball hat.

32. I have searched the Washington Contractor License computer records which identify Shades of Seattle Inc. as having contractor license number SHADESI10KU with an expiration date of 6/1/2000. The address listed for Shades of Seattle's contractors license is 12428 Highway 99 Unit 43, Everett, Washington, 987204. The records list Ted Peterson as the principal for the company. I have also searched the computer records of the Washington State Department of Revenue. The Washington State Department of Revenue records identify Shades of Seattle Inc. by tax number (b) (4) and list their mailing address as 12428 Highway 99 Suite 43 Everett, Washington 98204.

33. I have reviewed the EPA files and have determined that an EPA hazardous waste identification number has not been issued to Shades of Seattle as required by RCRA, 42 U.S.C. §6922 and by 40 C.F.R. § 262.12. An EPA identification number is required by generators of hazardous waste in order for them to legally treat, store, dispose of, transport or offer for transport, hazardous waste. I have further reviewed the EPA files and determined

that none of the locations where waste solvents have been found dumped has been issued interim status or a permit as required by RCRA, 42 U.S.C. §§ 6925 and 6926.

34. Records indicate that Shades of Seattle has purchased Rodda Lacquer Thinner, Klean Strip paint thinner, Recochem paint thinner and Parker Paints "Wood Hide" paint for use in their painting business. According to records provided by Rodda Paints and Parker Paints, Shades of Seattle is the only company that has purchased all three paint thinner products in the quantities found illegally dumped and purchased Parker Paints "Wood Hide" paint from the batch number 4060 white 98E1045HS. I have identified two containers^W at a job site, where Shades of Seattle is working, with masking tape wrapped around the containers in a manner consistent with the containers found illegally dumped. One of the containers I observed at the job site had a funnel inserted into the opening in a manner to assist liquid to be poured into the container. I have determined that Shades of Seattle does not have an EPA identification number, required for a company to legally dispose of hazardous waste.

35. Copies of photographs taken of the illegally dumped containers of paint solvent waste at various locations within the Western District of Washington are attached hereto as Exhibit 1 and incorporated herein by reference.

35. On several occasions during my investigation, I conducted surveillance at the Shades of Seattle facility, which has a business address of 12428 Highway 99, Unit 43, Everett, Washington. Unit 43 is one of the building units with a bay door within an industrial park at that location. On several occasions while conducting such surveillance, I also observed vehicles associated with Shades of Seattle parked within the bay door associated with Unit 44. These vehicles included a van with the Shades of Seattle logo written on the side of it. From my observation position, I also could see paint cans stored within Unit 44. Accordingly, from

my observations, it appears that Shades of Seattle occupies both Units 43 and 44 within that industrial park. The Shades of Seattle facility is further described in Attachment A to this Affidavit, which Attachment is incorporated herein by reference.

36. Based on my training, observations, and experience, I am aware that contracting businesses, like Shades of Seattle, frequently keep at their business premises certain materials used in their businesses and records documenting the types of materials they purchase, including paint and solvents. Records associated with this type of business include, but not limited to, receipts, invoices and shipping documents. It my experience that companies in the subcontracting business also keep at their business premises records documenting the location of job sites and the names of general contractors who employ them. Records associated with subcontracting businesses included, but are not limited to bids, proposals, contracts, maps and drawings identifying the scope of work to be preformed. It is also my experience that businesses keep employee records which include employee lists, time cards and payroll documentation. Further, it is my experience that most businesses now use computers to generate and maintain records. The records I would expect to find at such premises are described in further detail in Attachment B to this Affidavit, which Attachment is incorporated herein by reference.

37. Based upon the above information, along with my training, observations, and experience, I believe that I have probable cause to believe that Shades of Seattle generated paint solvent waste, marked the waste containers with masking tape, and then illegally transported, treated, stored and disposed of that hazardous waste, totaling approximately 171 five-gallon containers and 89 two and one-half gallon, at several locations in Washington State, all in violation of the Resource Conservation and Recovery Act (RCRA), 42.

U.S.C.6902 et seq. I further believe that I have probable cause to believe that located at the business premises of Shades of Seattle, as more fully described in Attachment A hereto, are the fruits, instrumentalities, and evidence of such illegal transportation, treatment, storage and disposal of hazardous waste, as more fully described in Attachment B hereto.

(b) (6), (b) (7)(C)

U.S. Environmental Protection Agency
Criminal Investigation Division

SUBSCRIBED and SWORN to before me this 2 day of

September, 1999, by Michael J. Burnett.


UNITED STATES MAGISTRATE JUDGE